

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MOHAMMED UMER, :
Plaintiff, : 21-CV-3422 (JMF)
-v- : ORDER
CON EDISON OF NEW YORK, :
Defendant. :
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JESSE M. FURMAN, United States District Judge:

On October 21, 2021, Defendant filed a motion to dismiss the complaint under Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has twenty-one (21) days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course. Because Plaintiff is proceeding *pro se*, however, the Court will give Plaintiff additional time to amend the complaint.

Accordingly, it is hereby ORDERED that Plaintiff shall file any amended complaint by **December 2, 2021**. If Plaintiff believes that the pleading of additional facts will cure deficiencies identified in the motion to dismiss, the Plaintiff should include those facts in the amended complaint. Plaintiff will not be given any further opportunity to amend the complaint to address issues raised by the motion to dismiss.

If Plaintiff does amend, by three (3) weeks after the amended complaint is filed, Defendant shall: (1) file an answer; (2) file a new motion to dismiss; or (3) file a letter on ECF stating that it relies on the previously filed motion to dismiss. If Defendants files an answer or a new motion to dismiss, the Court will deny the previously filed motion to dismiss as moot.

If no amended complaint is filed, Plaintiff shall serve any opposition to the motion to dismiss by **December 2, 2021**. Defendant's reply, if any, shall be served by **December 16, 2021**. At the time any reply is served, the party represented by counsel shall supply the Court with one, double-sided courtesy hard copy of all motion papers by mailing or delivering them to the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, New York.

Either party may request an extension of the briefing schedule for the motion. A deadline will be extended if the party demonstrates that its pursuit of the action has been diligent and that there is a good reason for extending the deadline.

The Clerk of the Court is directed to terminate ECF No. 17 (which was erroneously filed as a motion as well). As Plaintiff previously consented to receive electronic notice via the ECF system, *see* ECF No. 4, there is no need to mail a copy of this Order to Plaintiff.

SO ORDERED.

Dated: October 22, 2021
New York, New York



JESSE M. FURMAN
United States District Judge